

## REMARKS

Claims 1-39 are pending in this application. Claims 1, 9, 19 and 31 are independent. Applicant proposes canceling claims 26 and 27.

The Office has indicated claims 7 and 17 would be allowable if the subject matter of the base claims and the claims from which they depend were incorporated into the respective claims.

Claims 1-6, 8-16, 18, 20-30, and 32-39 stand rejected under 35 U.S.C. § 103(a).

Reconsideration in view of the above-listed amendments and the following remarks is respectfully requested.

### *Allowable Subject Matter*

Applicant acknowledges the Office's determination that claims 7 and 17 recite patentable subject matter. Applicant proposes amending independent claims 1, 9, 19, and 31 to incorporate the subject matter that the Office has identified as allowable.

### *Rejections under 35 U.S.C. § 103*

Claims 1 – 4, 6, 8 – 14, 16, 18-24, 26 – 30, 31-37, and 39 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. patent 5,261,085 (hereinafter “085 patent”) in view of Paxos Made Simple (hereinafter “Paxos”) and U.S. patent 6,532,494 (hereinafter “494 patent”).

Claims 5, 15 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the 085 patent in view of Paxos and the 494 patent in further view of U.S. patent publication 2003/0227392 (the “392 application”).

Claim 38 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the 085 patent in view of Paxos and the 494 patent and in view of U.S. patent publication 2002/0112198 (the “198 application”).

Reconsideration is respectfully requested.

In the office action that was issued June 9, 2009, the Office acknowledged that claims 7 and 17 were directed to allowable subject matter. (6.9.09 office action at p. 35). Likewise, in the November 25, 2009 office action, the Office acknowledged that claims 7 and 17 were directed to allowable subject matter. (11.25.09 office action at p. 34). In the present office action, the Office yet again identifies that the subject matter of claims 7 and 17 as allowable. (office action at p. 27).

Applicants propose amending claim 1 to remove language added in the previously filed reply and adding language corresponding to claim 7 and intervening claim 6.

Applicant proposes amending claim 9 to remove language added in the previously filed reply and adding language corresponding to claim 17 and intervening claim 16.

Applicant proposes amending claim 19 to remove language added in the previously filed reply and adding language corresponding to claim 27 and intervening claim 26.

Applicant proposes amending claim 31 to incorporate language analogous to that recited in claims 7 and 6.

The undersigned respectfully submits that for all of the reasons that the Office has previously identified claims 7 and 17 as allowable, claims 1, 9, 19, and 31 are now in allowable form.

Reconsideration and withdrawal of the rejections under 35 U.S.C. § 103 is respectfully solicited.

### **CONCLUSION**

The undersigned respectfully submits that pending claims are allowable and the application is in condition for allowance. A Notice of Allowance is respectfully solicited.

Examiner Sciacca is invited to call the undersigned in the event a telephone interview will advance prosecution of this application.

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